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VIA HAND DELIVERY

July 22, 1999

Magalie Roman Salas
 Secretary
 Federal Communications Commission
 445 12th Street, SW
 Washington, D.C. 20554

Reference: *Ex Parte* Submission in "Permit but Disclose" Proceeding
 CC Docket Nos. 96-45 and 97-21
 USAC Application No. 18132

Dear Ms. Salas:

In accordance with Section 1.1206(b) of the Commission's Rules, between July 19, 1999 and July 22, 1999, representatives of the Tennessee Department of Education ("Tennessee") and of Education Networks of America, Inc. ("ENA") responded in a series of telephone conversations to a number of clarifying questions posed to them by Sonja Rifken of the Commission regarding matters set forth in the Parties' Petitions for Review in the above-referenced "permit-but-disclose" proceedings.

With the exceptions noted here, only matters reflected in written comments in the above-referenced proceedings were discussed:

1. The Commission Staff wished to confirm the Administrator's Decision on Funding Request Line 1, regarding ConnecTen costs.

Funding Request Line 1 of the State's Application No. 18132 includes the "initial costs" for the initiation of Internet Access Services of \$1,000 per school for 1,750 schools, or \$1.7M. The \$7.9M cited in the Administrator's Decision includes ConnecTen costs not included in this Application for First Year Funding.

2. The Commission Staff wished to confirm the costs of Internet Access ISP routers physically located "on school premises".

Lines 5 through 10, inclusive, of the State's Application No. 18132 include, but are not limited to, the cost of Internet Access Services that make use of ENA ISP

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routers that cost \$1,500 per school for 150 schools. Each line has 150 routers, for a total cost of \$1.3M for the six (6) lines, or \$225,000 per line. It was noted that these routers belong to the ISP, are not part of the school's LAN routers and are not dedicated to school use, rather they are used by ENA for its services to others as well. They are identical to the routers used by any ISP at "its remote premise" POP to provide Internet service to dial up customers and to customers connecting at this POP. Since the SLC would not respond to the State's inquiries, as noted below, the State did not know of a need to "break out" these Application line costs by equipment or geographic location.

3. The Commission Staff wished to know the background for the Statement in Item 16 of the State's Application, which asserted and reserved the right of the State to "break out", restate, or sub-divide, costs in individual lines of its Application, if necessary at a later time.

The Schools and Libraries Corporation (SLC), in order to assist schools in the filing of their Applications and to justify its line-by-line review, encouraged meetings and met as needed with schools in advance of their filing of Applications. In addition, as part of the Program Integrity Review Process and in order to understand the submitted Application, SLC staff and contractors met with applicants. In the case of Tennessee, however, no such opportunity was extended. Since the SLC program integrity procedures were not yet finalized, and since contrary to the Commission's Rules, a protest had been filed with the SLC even before the State Application was filed, the SLC apparently did not feel that they could meet with the State as they did with others, and the State's requests for meetings were denied. Accordingly, Tennessee was unique in that it alone was denied the ability to discuss its Application with the SLC BEFORE filing. The State thus reserved this right in its Application until after the Commission provided guidance..

It was Tennessee's stated view that it was denied due process offered to all other Applicants and that, absent an ability to adjust lines, it could be irreparably harmed. Further, absent the ability to adjust, such a course would prompt other parties to file SLC Oppositions even before School Applications are filed as a strategy to prevent funding by encouraging errors in SLC forms.

The State believes that it has complied with all USF Funding Rules and thus its Application does not need to be restated and should be funded in full. It further believes that, to the extent the Administrator's Decision disallowed individual funding lines, in full, because she believed that small components of these individual lines in the State's Application might have been ineligible, she was incorrect and denied the State Due Process. Eligible components, under these circumstances, should not have been, and should not be, denied.

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4. The Commission Staff wished to confirm the number of schools involved in the initial service and to understand guaranteed service levels

The number of schools and the service levels were set forth in Exhibit A to this letter.

5. The Commission Staff wished to confirm that "one-time non-recurring costs" were instituted, in part, at the State's request in order to reduce the total cost of Internet Access Service to the State and to the USF.

The State confirmed that the total cost of the Internet Access Service was reduced when the State agreed to pay a certain percentage (%) of the regular Internet service costs upon initiation, rather than to accept the spread of those service costs over the SLC first year service period. An offer was made to share the State's cost analysis. Thus, the one-time non-recurring costs in Tennessee do NOT accurately reflect "facilities", "construction" or "one-time" costs.

One (1) Original and two (2) copies of this letter are enclosed for filing with the Secretary in the above dockets.

Sincerely,

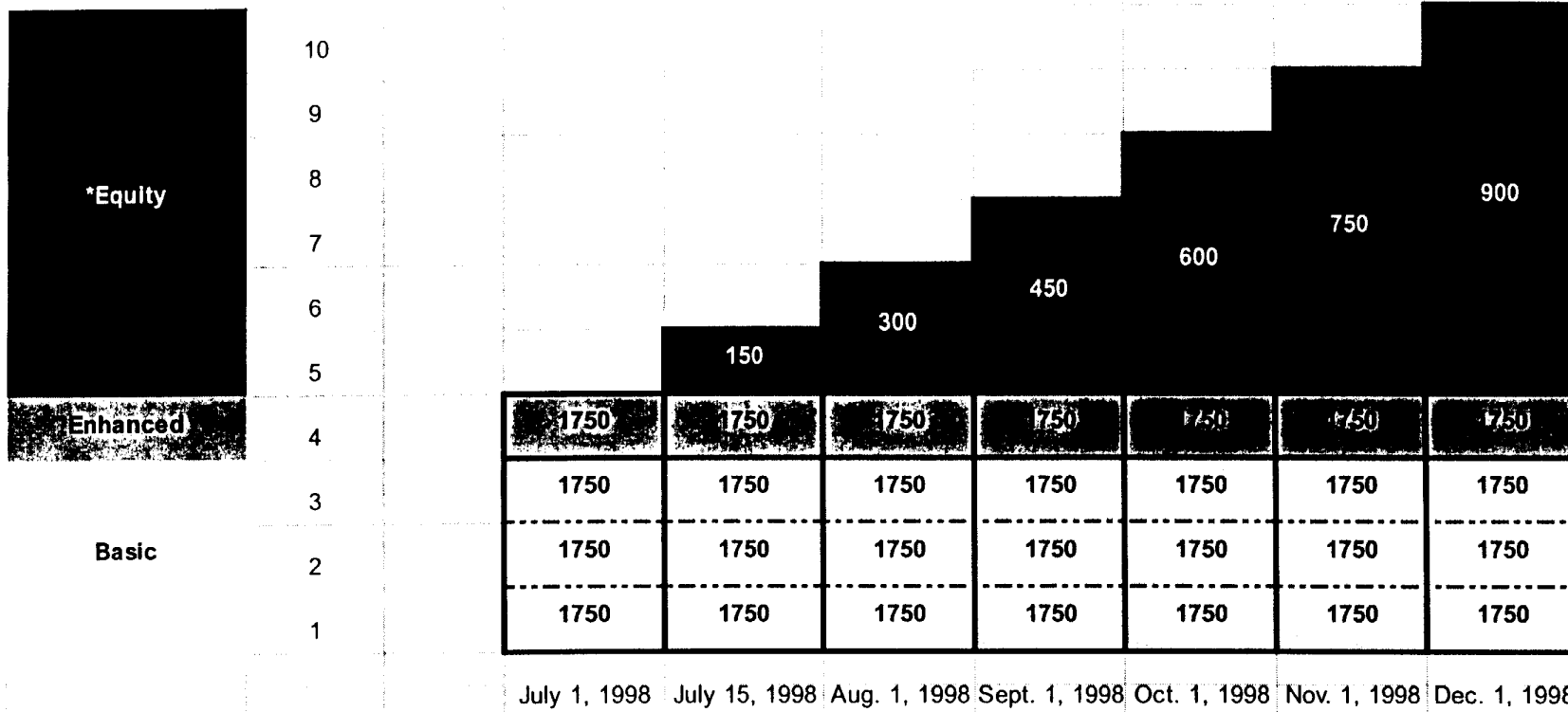


William K. Coulter

WKC:clz
Enclosure
cc Sonja Rifken

ENA Service Level Provisions

471 Type of Service 471 Line #



Results

- Line 1 1750 Schools have initiated service.
- Line 2 1750 Schools have basic access. → Provision of 2,000,000 web requests per day
- Line 3 1750 Schools have basic bandwidth.
- Line 4 1750 Schools have enhanced service. → Provision of 10,000,000 web requests per day
- Line 5-10 Each of the remaining lines represent service level results of a minimum of 2 web pages per minute for a specified block of schools.

*Equity – Tennessee defines equity of Internet access as providing a minimum of 2 screens per minute for a computer for every 10 students.

When all schools reach the equity level, then the 1750 schools will have 60,000,000 web requests per day or approximately 60 requests per student and teacher. This equates to the state's goal of 3 hours of access per student per week.